



Building Societies Act 1986

1986 CHAPTER 53

PART IV

PROTECTION OF INVESTORS

Modifications etc. (not altering text)

C1 Pt. IV (ss. 24-33) modified (1.7.1995) (*temp.* until 31.12.1999) by [S.I. 1995/1442](#), [reg. 54\(2\)](#)

Investor Protection Scheme

24 The Building Societies Investor Protection Board.

- (1) There shall be a body corporate to be known as the Building Societies Investor Protection Board (in this Part referred to as “the Board”) which—
 - (a) shall hold, manage and apply in accordance with the protective scheme provisions of this Part a fund to be known as the Building Societies Investor Protection Fund (referred to in those provisions as “the Fund”); and
 - ^[F1](b) shall, if a participating institution becomes insolvent, levy contributions to the Fund from other participating institutions in accordance with section 26; and.]
 - (c) shall have such other functions as are conferred on the Board by the protective scheme provisions of this Part.
- (2) Schedule 5 to this Act shall have effect with respect to the constitution of the Board and the procedural and other matters there mentioned.
- (3) In this Act “the protective scheme provisions” means ^[F2]sections 25 to 29A].
- ^[F3](4) In this section and the protective scheme provisions—

‘the 1992 Regulations’ means the Banking Coordination (Second Council Directive) Regulations 1992 ^{F4};

Status: Point in time view as at 09/06/1997.

Changes to legislation: Building Societies Act 1986, Part IV is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

'the 1995 Regulations' means the Credit Institutions (Protection of Depositors) Regulations 1995;

'ecu' means—

- (a) the European currency unit as defined in Article 1 of Council Regulation No. 3320/94/EC^{F5}; or
- (b) except in section 27(5A), any other unit of account which is defined by reference to the European currency unit as so defined;

'EEA currency' means the currency of an EEA State or ecus;

'EEA State' means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992^{F6} as adjusted by the Protocol signed at Brussels on 17th March 1993^{F7};

'European authorised institution' has the same meaning as in the 1992 Regulations;

'home State' and 'home State scheme' have the same meaning as in the 1995 Regulations;

'Irish building society' means an institution which is incorporated in or formed under the laws of the Republic of Ireland and whose characteristics correspond as nearly as may be to those of a building society;

'participating EEA institution' means—

- (a) a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the scheme established by the protective scheme provisions; or
- (b) an institution which was formerly such an institution and continues to have a liability in respect of any investment for which it had a liability when it was such an institution;

'participating institution' means a building society or participating EEA institution.]

Textual Amendments

- F1 S. 24(1)(b) substituted (1.7.1995) by S.I. 1995/1442, **reg. 36(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F2 Words in s. 24(3) substituted (1.7.1995) by S.I. 1995/1442, **reg. 36(2)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F3 S. 24(4) inserted (1.7.1995) by S.I. 1995/1442, **reg. 36(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F4 S.I. 1992/3218: amended by S.I. 1993/3225.
- F5 O.J. L35, 31.12.94, page 1.
- F6 Cm 2073.
- F7 Cm 2183.

Modifications etc. (not altering text)

- C2 Ss. 24-26: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, **art. 2(g)**

Status: Point in time view as at 09/06/1997.

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25 The Investor Protection Fund.

- (1) The Fund shall consist of—
 - (a) contributions levied from [^{F8}participating institutions] under section 26;
 - (b) moneys borrowed by the Board under section 26(14);
 - (c) income credited to the Fund in accordance with subsection (3) below;
 - (d) payments made to the Board under subsection (6) below; and
 - (e) money credited to the Fund in accordance with section 29.
- (2) The moneys constituting the Fund from time to time shall be placed by the Board in an account with the Bank of England.
- (3) So far as possible, the Bank of England shall invest moneys placed with it under subsection (2) above in Treasury bills; and any income from moneys so invested shall be credited to the Fund.

[^{F9}(3A) In subsection (3) above, the reference to Treasury bills includes a reference to bills and other short-term instruments issued by the government of another EEA State and appearing to the Bank of England to correspond as nearly as may be to Treasury bills:]

- (4) The administrative expenses of the Board shall be defrayed out of the Fund.
- (5) There shall be chargeable to the Fund—
 - (a) payments to meet administrative expenses of the Board in accordance with subsection (4) above;
 - (b) moneys required for the repayment of the Board's borrowings, and interest thereon, under section 26(14); and
 - (c) payments to investors under section 27 and any expenses incurred in connection with the making of such payments;
 - (d) payments to contributory societies under section 29(7);

and, in the protective scheme provisions of this Part—

[^{F10}“authorised institution” means an institution authorised under the Banking Act 1987]

“the expenses attributable to the insolvency”, with reference to a [^{F11}participating institution] insolvency, means all the sums chargeable to the Fund under [^{F12}paragraphs (a) to (c)] above in respect of that insolvency except that, in the case of payments to meet administrative expenses of the Board, it means so much only of those expenses as the Board determines shall be attributed to the insolvency; and

“insolvency payments to investors” means the payments under section 27 referred to in paragraph (c) above, and “insolvency payment” has a corresponding meaning; and

^{F13}
...

- (6) The Commission shall, at the request of the Board, make payments to it towards the administrative expenses of the Board.
- (7) In so far as the Board authorises [^{F14}the Bank of England or]any [^{F15}authorised institution] or building society to receive on its behalf any contributions levied by the Board and to make on its behalf any of the insolvency payments to investors out of the sums so received, the sums so received need not be paid into the Fund and payments need not be made out of the Fund but shall be treated as if they were respectively comprised in and charged on the Fund and shall be accounted for accordingly

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Textual Amendments

- F8** Words in s. 25(1)(a) substituted (1.7.1995) by S.I. 1995/1442, **reg. 37(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F9** S. 25(3A) inserted (1.7.1995) by S.I. 1995/1442, **reg. 37(2)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F10** Definition inserted by **Banking Act 1987 (c. 22, SIF 10), s. 108(1), Sch. 6 para. 26(2)**
- F11** Words in s. 25(5) substituted (1.7.1995) by S.I. 1995/1442, **reg. 37(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F12** Words in s. 25(5) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 5(1)**; S.I. 1997/1427, **art. 2(k)(n)(i)**
- F13** Definitions repealed by **Banking Act 1987 (c. 22, SIF 10), s. 108, Sch. 6 para. 26(2), Sch. 7 Pt. I**
- F14** Words in s. 25(7) inserted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 5(2)**; S.I. 1997/1427, **art. 2(k)(n)(i)**
- F15** Words substituted by **Banking Act 1987 (c. 22, SIF 10), s. 108(1), Sch. 6 para. 26(3)**

Modifications etc. (not altering text)

- C3** Ss. 24-26: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, **art. 2(g)**
- C4** S. 25 extended (1.1.1993) by S.I. 1992/3218, **reg. 82(1), Sch. 10 Pt. I para. 22(b)**

25 The Investor Protection Fund. **U.K.**

- (1) The Fund shall consist of—
- (a) contributions levied from [^{F82}participating institutions] under section 26;
 - (b) moneys borrowed by the Board under section 26(14);
 - (c) income credited to the Fund in accordance with subsection (3) below;
 - (d) payments made to the Board under subsection (6) below; and
 - (e) money credited to the Fund in accordance with section 29.
- (2) The moneys constituting the Fund from time to time shall be placed by the Board in an account with the Bank of England.
- (3) So far as possible, the Bank of England shall invest moneys placed with it under subsection (2) above in Treasury bills; and any income from moneys so invested shall be credited to the Fund.
- [^{F83}(3A) In subsection (3) above, the reference to Treasury bills includes a reference to bills and other short-term instruments issued by the government of another EEA State and appearing to the Bank of England to correspond as nearly as may be to Treasury bills:]
- (4) The administrative expenses of the Board shall be defrayed out of the Fund.
- (5) There shall be chargeable to the Fund—
- (a) payments to meet administrative expenses of the Board in accordance with subsection (4) above;
 - (b) moneys required for the repayment of the Board's borrowings, and interest thereon, under section 26(14); and
 - (c) payments to investors under section 27 and any expenses incurred in connection with the making of such payments;
 - (d) payments to contributory societies under section 29(7);
- and, in the protective scheme provisions of this Part—

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[^{F84}“authorised institution” means an institution authorised under the Banking Act 1987]

“the expenses attributable to the insolvency”, with reference to a [^{F85}participating institution] insolvency, means all the sums chargeable to the Fund under paragraphs (a) to (d) above in respect of that insolvency except that, in the case of payments to meet administrative expenses of the Board, it means so much only of those expenses as the Board determines shall be attributed to the insolvency; and

“insolvency payments to investors” means the payments under section 27 referred to in paragraph (c) above, and “insolvency payment” has a corresponding meaning; and

^{F86}

- (6) The Commission shall, at the request of the Board, make payments to it towards the administrative expenses of the Board.
- (7) In so far as the Board authorises any [^{F87}authorised institution] or building society to receive on its behalf any contributions levied by the Board and to make on its behalf any of the insolvency payments to investors out of the sums so received, the sums so received need not be paid into the Fund and payments need not be made out of the Fund but shall be treated as if they were respectively comprised in and charged on the Fund and shall be accounted for accordingly

Textual Amendments

- F82** Words in s. 25(1)(a) substituted (1.7.1995) by S.I. 1995/1442, **reg. 37(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F83** S. 25(3A) inserted (1.7.1995) by S.I. 1995/1442, **reg. 37(2)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F84** Definition inserted by **Banking Act 1987 (c. 22, SIF 10), s. 108(1), Sch. 6 para. 26(2)**
- F85** Words in s. 25(5) substituted (1.7.1995) by S.I. 1995/1442, **reg. 37(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F86** Definitions repealed by **Banking Act 1987 (c. 22, SIF 10), s. 108, Sch. 6 para. 26(2), Sch. 7 Pt. I**
- F87** Words substituted by **Banking Act 1987 (c. 22, SIF 10), s. 108(1), Sch. 6 para. 26(3)**

Modifications etc. (not altering text)

- C13** S. 25 extended (1. 1. 1993) by S.I. 1992/3218, **reg. 82(1), Sch. 10 Pt. I para. 22(b)**

[^{F16}25A Meaning of insolvency etc.

- (1) For the purpose of the protective scheme provisions of this Part, a building society becomes insolvent—
 - (a) on the making by the Commission of a determination that, for reasons which directly relate to the society’s financial circumstances, the society—
 - (i) is unable to repay investments which are due and payable; and
 - (ii) has no current prospect of being able to do so; or
 - (b) on the making by a court in any part of the United Kingdom, or in another EEA State, of a judicial ruling which—
 - (i) directly relates to the society’s financial circumstances; and
 - (ii) has the effect of suspending the ability of investors to make claims against the society,

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but only if investments made with the society have become due and payable and have not been repaid; and the occurrence of any of those events in those circumstances constitutes a “participating institution insolvency” for the purposes of those provisions.

(2) For the purposes of the protective scheme provisions of this Part, a participating EEA institution becomes insolvent—

- (a) on the making by the supervisory authority in the institution’s home State of a declaration that investments held by the institution are no longer available; or
- (b) on the making by a court in any part of the United Kingdom, or in an EEA State other than the institution’s home State, of a judicial ruling which—
 - (i) directly relates to the institution’s financial circumstances; and
 - (ii) has the effect of suspending the ability of investors to make claims against the institution,

but only if, in a case falling within paragraph (b) above, investments made with the [F17 institution] have become due and payable and have not been repaid; and the occurrence of any of those events, in those circumstances in a case falling within that paragraph, constitutes a “participating institution insolvency” for the purposes of those provisions.

(3) For the purposes of the protective scheme provisions of this Part—

- (a) a participating institution which has become insolvent by virtue of such a determination or declaration as is mentioned in subsection (1)(a) or (2)(a) above ceases to be insolvent on any withdrawal of the determination or declaration; and
- (b) a participating institution which has become insolvent by virtue of such a judicial ruling as is mentioned in subsection (1)(b) or (2)(b) above ceases to be insolvent on any reversal of the ruling (whether on appeal or otherwise).

(4) In relation to a building society, it shall be the duty of the Commission—

- (a) to make such a determination as is mentioned in subsection (1)(a) above within 21 days of its being satisfied as there mentioned; and
- (b) to withdraw such a determination within 21 days of its ceasing to be so satisfied.

(5) In this section “investment”—

- (a) in relation to a building society or Irish building society, means a deposit with or a share in the society;
- (b) in relation to any other participating institution, means a deposit with the institution.]

Textual Amendments

F16 S. 25A inserted (1.7.1995) by S.I. 1995/1442, **reg. 38** (with transitional and transitory provisions in regs. 53(2), 54(2))

F17 Word in s. 25A(2) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 6**; S.I. 1997/1427, **art. 2(k)(n)(i)**

Modifications etc. (not altering text)

C5 S. 25A(4)(a) modified (1.7.1995) by S.I. 1995/1442, **reg. 53(4)** (with transitory provisions in reg. 54(2))

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26 Power to levy contributions and to borrow money in event of insolvency.

^{F18}(1)

[^{F19}(2) If a participating institution becomes insolvent the Board shall levy contributions to the Fund for the purpose of making insolvency payments to investors at such level of investor protection as is provided for by section 27 and meeting the other expenses attributable to the insolvency.

(3) All institutions (other than the insolvent institution) which on the date of the insolvency are—

- (a) authorised building societies; or
- (b) European authorised institutions which, in accordance with Chapter I of Part II of the 1995 Regulations, are participating in the scheme established by the protective scheme provisions,

are liable to contribute to the Fund and are in the protective scheme provisions of this Part referred to as “contributory institutions”.

(4) If a participating institution becomes insolvent—

- (a) the Board shall, subject to subsection (10) below, levy a contribution from each of the contributory institutions; and
- (b) the amount of the contribution due from an institution shall be determined by applying to its share and deposit base a percentage determined by the Board for the purpose of the contributions levied to meet the expenses attributable to the insolvency.

(5) In determining the percentage to be applied under subsection (4) above to the share and deposit bases of contributory institutions, the Board shall have regard to the factors specified in subsection (6) below.

(6) Those factors are—

- (a) the amount available to meet the expenses attributable to the insolvency from the contributions leviable from contributory institutions; and
- (b) the amount of the expenses attributable to the insolvency at the level of investor protection provided for by section 27.]

(7) If it appears to the Board, as respects a [^{F20}participating institution] insolvency, that the contributions it has levied will be insufficient to make the insolvency payments to investors at the level of investor protection [^{F21}provided for by] section 27, the Board may levy further contributions under subsection (2) above from the [^{F22}contributory institutions].

(8) Contributions to the Fund shall be levied on a [^{F23}contributory institution] by the Board by service on [^{F24}the institution] of a notice specifying the amount (or further amount) due, which shall be paid by [^{F24}the institution] not later than twenty-one days after the date on which the notice is served.

[^{F25}(8A) Where—

- (a) a notice under subsection (8) above is served on a contributory institution; and
- (b) the amount specified in the notice remains unpaid after the period of twenty-one days mentioned in that subsection,

the Board shall as soon as practicable give written notice of that fact to the Commission.

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- (9) In relation to any contribution, the share and deposit base of an authorised building society is such amount as represents the aggregate of so much of the society's liabilities as is referable to sums desposited with the society, or to shares in the society, as shown in the latest balance sheet sent to the Commission in accordance with section 81.
- (9A) In relation to any contribution, the share and deposit base of a participating EEA institution is the difference between—
- (a) such amount as represents the aggregate of so much of the institution's liabilities as is referable to sums deposited with the institution, or (in the case of an Irish building society) to shares in the institution, as shown in the latest balance sheet sent to the supervisory authority in its home State; and
 - (b) the amount mentioned in subsection (9B) below.
- (9B) The amount referred to in subsection (9A) above is the amount given by the formula—

$$\frac{HS}{UK}$$

where—

PA = so much of the first-mentioned amount as is attributable to desposits which are protected by the institution's home State scheme;

HS = the level of protection (expressed in ecus) afforded by that scheme at the time as at which the balance sheet was drawn up, or the level of protection mentioned below, whichever is the less;

UK = the level of protection (so expressed) afforded by this Part of this Act at that time.]

- (10) No [^{F26}contributory institution] shall be required to pay a contribution if, or to the extent that, the amount of that contribution, together with previous contributions levied under this section for the purposes of any [^{F27}participating institution] insolvency, after allowing for any repayments made to it under section 29, amounts to more than 0.3 per cent. of the [^{F28}institution's] share and deposit base as ascertained for the purposes of the contribution in question.
- (11) Nothing in subsection (10) above—
- (a) shall entitle [^{F29}an institution] to repayment of any contribution previously made, or
 - (b) shall prevent the Board from proceeding to levy contributions from other [^{F30}contributory institutions] in whose case the limit in that subsection has not been reached.
- (12) The Treasury may, after consultation with the Board, by order made by statutory instrument, amend subsection (10) above so as to substitute for the percentage for the time being specified in that subsection such other percentage as may be specified in the order.
- (13) No order shall be made under subsection (12) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

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- (14) If, as respects a [^{F31}participating institution] insolvency, it appears to the Board desirable to do so for the purpose of facilitating the making of insolvency payments to investors, the Board may borrow temporarily for that purpose subject, however, to the limit imposed by subsection (15) below.
- (15) The aggregate of the amounts outstanding in respect of the principal of and interest due on sums borrowed under subsection (14) above shall not at any time exceed the aggregate of the sums leviable at that time from [^{F32}contributory institutions] for the purposes of any insolvency.
- (16) Any sums borrowed by the Board under subsection (14) above in respect of a [^{F33}participating institution] insolvency shall be repaid as soon as practicable after the contributions levied in respect of the insolvency have been paid by the [^{F34}contributory institutions].
- (17) In this section “the level of investor protection”, in relation to insolvency payments to investors, means the proportion applicable for the purpose of calculating the amount of those payments under section 27.

Textual Amendments

- F18** S. 26(1) omitted (1.7.1995) by virtue of S.I. 1995/1442, **reg. 39(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F19** S. 26(2)-(6) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(2)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F20** Words in s. 26(7) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(3)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F21** Words in s. 26(7) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(3)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F22** Words in s. 26(7) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(3)(c)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F23** Words in s. 26(8) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(4)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F24** Words in s. 26(8) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(4)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F25** S. 26(8A)-(9B) substituted for s. 26(9) (1.7.1995) by S.I. 1995/1442, **reg. 39(5)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F26** Words in s. 26(10) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(6)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F27** Words in s. 26(10) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(6)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F28** Words in s. 26(10) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(6)(c)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F29** Words in s. 26(11) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(7)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F30** Words in s. 26(11) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(7)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F31** Words in s. 26(14) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(8)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F32** Words in s. 26(15) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(9)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F33** Words in s. 26(16) substituted (1.7.1995) by S.I. 1995/1442, **reg. 39(10)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)

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F34 Words in s. 26(16) substituted (1.7.1995) by S.I. 1995/1442, reg. 39(10)(b) (with transitional and transitory provisions in regs. 53(2), 54(2))

Modifications etc. (not altering text)

C6 Ss. 24-26: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g)

27 Payments to investors.

[^{F35}(1) Subject to the following provisions of this section, if at any time a participating institution becomes insolvent, the Board—

- (a) shall as soon as practicable pay out of the Fund to persons who have at that time protected investments in the institution which are due and payable amounts equal to 90 per cent of their protected investments; and
- (b) shall in any event secure that, before the end of the relevant period, it is in a position to make those payments as soon as they fall to be made.

(2) If at any time a participating institution ceases to be insolvent, subsection (1) above shall cease to apply in relation to that institution.

(2A) In subsection (1) above “the relevant period” means—

- (a) the period of three months beginning with the time when the institution becomes insolvent; or
- (b) that period and such additional period or periods, being not more than three and of not more than three months each, as the Commission may in exceptional circumstances allow.]

(3) A person claiming to be entitled to a payment under this section in respect of his protected investment in an [^{F36}insolvent participating institution] shall make his claim in such form, with such evidence proving it, and within such period, as the Board directs and either to the Board or to [^{F37}such institution (whether the Bank of England, an authorised institution or a building society)] authorised by the Board to make the payments on its behalf, as the Board directs.

[^{F38}(3A) The amount of any payment which falls to be made under subsection (1) above in respect of a protected investment made with an office of a building society in another EEA State shall not exceed such amount as the Board may determine is or would be payable, in respect of an equivalent investment or deposit made with an institution authorised in that State, under any corresponding scheme for the protection of investors or depositors which is in force in that State.

(3B) Where the Board is satisfied that an investor has received or is entitled to receive, under any home State scheme, a payment in respect of a protected investment made with a United Kingdom office of a participating EEA institution, the Board shall deduct an amount equal to that payment from the payment that would otherwise be made to the investor under subsection (1) above.]

(4) The Board may decline to make any payment under subsection (1) above to a person who, in the opinion of the Board, had any responsibility for, or may have profited directly or indirectly from, the circumstances giving rise to the [^{F39}institution’s] financial difficulties.

[^{F40}(4A) There shall be deducted from any payment to be made by the Board under subsection (1) above in respect of a protected investment any payment already made in respect of that investment by a liquidator of the institution; and in this subsection,

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- in relation to an institution formed under the law of a country or territory outside the United Kingdom, the reference to a liquidator includes a reference to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator.
- (5) For the purposes of this section in its application in relation to a participating institution which has become insolvent—
- (a) a person has at any time a protected investment in the institution if he has a deposit with the institution in an EEA currency or, in the case of a building society or Irish building society, a share in the society; and
 - (b) his protected investment is the total liability of the institution to him, limited to the maximum mentioned in subsection (5A) below, which is referable to sums deposited with the institution or, in the case of a building society or Irish building society, to shares in the society.
- (5A) The maximum is £20,000 or the sterling equivalent of 22,222 ecus immediately before the institution became insolvent, whichever is the greater.
- (5B) In calculating a person's protected investment for the purposes of subsection (5) above, the amount to be taken into account as regards any deposit made in another EEA currency shall be its sterling equivalent immediately before the time when the institution became insolvent, or the time when the investment became due and payable, whichever is the later.
- (5C) In its application to a participating EEA institutions, subsection (5) above shall have effect as if any reference to a deposit with, or sums deposited with, the institution were a reference to a deposit with or sums deposited with, a United Kingdom office of the institution.]
- (6) The Treasury, after consultation with the Board, may by order made by statutory instrument—
- (a) amend [^{F41}subsection (1)] above so as to substitute for the percentage for the time being specified in that subsection [^{F41}such greater percentage] as may be specified in the order; and
 - [^{F42}(b) amend subsection (5A) above so as to substitute for either sum for the time being specified in that subsection such greater sum as may be specified in the order.]
- (7) No order shall be made under subsection (6) above unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- [^{F43}(8) In determining whether a person has a protected investment in a participating institution and the amount of it there shall be disregarded—
- (a) any deposit or shares which are own funds within the meaning given by Article 2 of Directive 89/299/EEC^{F44};
 - (b) any deposit made or share acquired by a credit institution on its own behalf and for its own account;
 - (c) any deposit or share which the Board is satisfied was made or acquired in the course of a money-laundering transaction;
 - (d) any deposit by a person mentioned in item 1 or 2 of Annex I to Directive 94/19/EC^{F45} which was made otherwise than as trustee for a person not so mentioned;
 - (e) any deposit, security or liability which falls within item 10 or 12 of that Annex; and

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- (f) in the case of an institution which has ceased to be a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the scheme established by the protective scheme provisions, any deposit made with the institutions after it ceased to be a such an institution.
- (8A) Paragraph (b) of subsection (8) above has effect subject to the provisions of Schedule 6 to this Act; and a transaction in connection with which an offence has been committed under—
- (a) any enactment specified in a regulation 2(3) of the Money Laundering Regulations 1993^{F46}; or
 - (b) any enactment in force in another EEA State, or in a country or territory outside the European Economic Area, which has effect for the purpose of prohibiting money laundering within the meaning of Article 1 of Directive 91/308/EEC^{F47},
- is a money-laundering transaction for the purposes of paragraph (c) of that subsection at any time if, at that time, a person stands convicted of the offence or has been charged with the offence and has not been tried.
- (9) In determining what is a protected investment of an investor, no account shall be taken of any liability unless—
- (a) proof of the debt, or a claim for repayment of the investment, which gives rise to the liability has been lodged with a liquidator of the institution; or
 - (b) the investor has provided the Board with all such written authorities, information and documents as, in the event of a liquidator being appointed, the Board will need for the purpose of lodging and pursuing, on the investor's behalf, a proof of the debt, or a claim for the repayment of the investment, which gives rise to the liability.
- (9A) In subsection (9) above, in relation to an institution incorporated in or formed under the law of an EEA State other than the United Kingdom—
- (a) references to a liquidator include references to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator; and
 - (b) references to the lodging, or the lodging and pursuing, of a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability include references to the doing of an act or acts which appear to the Board to correspond as nearly as may be to the lodging, or the lodging and pursuing, of such a proof or claim,]
- (10) Unless the Board otherwise directs in any particular case or class of case, in determining the total liability of an insolvent [^{F48}participating institution] to any person for the purposes of subsection (1) above, there shall be deducted the amount of any liability of that person to [^{F49}the institution]—
- (a) in respect of which a right of set-off existed immediately before [^{F49}the institution] became insolvent against any such investment of his as is referred to in that subsection, or
 - (b) in respect of which such a right would then have existed if the investment in question had been repayable on demand and the liability in question had fallen due.

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- (11) Payments under this section in respect of a protected investment in an insolvent [^{F50}participating institution] may, if the Board thinks fit, be made by such instalments as it determines for the purposes of that insolvency.
- (12) Schedule 6 to this Act, which contains provisions about investments held by trustees or jointly or on client's account, shall have effect.

Textual Amendments

- F35** S. 27(1)-(2A) substituted for s. 27(1)(2) (1.7.1995) by S.I. 1995/1442, **reg. 40(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F36** Words in s. 27(3) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(2)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F37** Words in s. 27(3) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 7(1)**; S.I. 1997/1427, **art. 2(k)(n)(i)**
- F38** S. 27(3A)-(3B) inserted (1.7.1995) by S.I. 1995/1442, **reg. 40(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F39** Words in s. 27(4) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(4)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F40** S. 27(4A)-(5C) substituted for s. 27(5) (1.7.1995) by S.I. 1995/1442, **reg. 40(5)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F41** Words in s. 27(6)(a) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(6)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F42** S. 27(6)(b) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(6)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F43** S. 27(8)-(9A) substituted for s. 27(8)(9) (1.7.1995) by S.I. 1995/1442, **reg. 40(7)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F44** O.J. L124, 5.5.89, page 16.
- F45** O.J. L135, 31.5.94, page 5.
- F46** S.I. 1993/1933.
- F47** O.J. L166, 28.6.91, page 77.
- F48** Words in s. 27(10) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(8)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F49** Words in s. 27(10) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(8)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F50** Words in s. 27(11) substituted (1.7.1995) by S.I. 1995/1442, **reg. 40(9)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)

Modifications etc. (not altering text)

- C7** Ss. 27, 28: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, **art. 2(g)**

[^{F51}27A Membership of insolvency committees etc.

- (1) The following provisions of this section have effect notwithstanding that the Board may not yet have made or become liable to make a payment under section 27(1) in relation to a participating institution which has become insolvent.
- (2) The Board shall at all times be entitled to receive any notice or other document required to be sent to a creditor of the institution whose debt has been proved.
- (3) A duly authorised representative of the Board shall be entitled—

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- (a) to attend any meeting of creditors of the institution and to make representations as to any matter for decision at that meeting;
 - (b) to be a member of any committee established under section 301 of the Insolvency Act 1986;
 - (c) to be a commissioner under section 30 of the ^{M1}Bankruptcy (Scotland) Act 1985;
 - (d) to be a member of a committee established for the purposes of Part IV or V of the ^{M2}Insolvency Act 1986 under section 101 of that Act or under section 141 or 142 of that Act;
 - (e) to be a member of any committee established under Article 274 of the ^{M3}Insolvency (Northern Ireland) Order 1989; and
 - (f) to be a member of a committee established for the purposes of Part V or VI of the Insolvency (Northern Ireland) Order 1989 under Article 87 or under Article 120 of that Order.
- (4) Where a representative of the Board exercises his right to be a member of such a committee as is mentioned in paragraph (b), (d), (e) or (f) of subsection (3) above, or to be a commissioner by virtue of paragraph (c) of that subsection—
- (a) he may not be removed except with the consent of the Board; and
 - (b) his appointment under that subsection shall be disregarded for the purposes of any provision made by or under any enactment which specifies a minimum or maximum number of members of such a committee or commission.]

Textual Amendments

F51 S. 27A inserted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 8**; S.I. 1997/1427, **art. 2(k)(n)(i)**

Marginal Citations

M1 1985 c.66.

M2 1986 c.45.

M3 S.I. 1989/2405 (N.I.19).

28 Liability of insolvent society in respect of payments by Board.

^{F52}(1) This section applies where—

- (a) a participating institution becomes insolvent, and
 - (b) the Board, by reason of the insolvency, has made, or is under a liability to make, an insolvency payment to an investor in respect of his protected investment.]
- (2) Where this section applies [^{F53}in respect of an institution that is being wound up]—
- (a) the [^{F54}institution] shall become liable to the Board, ^{F55} . . . , for an amount equal to the amount of the insolvency payment to the investor;
 - (b) the liability of [^{F56}the institution] to the investor, whether referable to deposits or referable to shares of his (in this section referred to as “the liability to the investor”), shall be reduced by an amount equal to the insolvency payment made or to be made to him by the Board; and
 - (c) the respective duties of the liquidator of the [^{F57}institution]—
 - (i) to make payments to the Board on account of the liability imposed by paragraph (a) above and to the investor on account of the liability to

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the investor so far as that liability is referable to deposits of his (after taking account of paragraph (b) above), and

- (ii) to make payments to the Board on account of the liability imposed by paragraph (a) above and to the investor on account of the liability to the investor so far as that liability is referable to shares of his (after taking account of paragraph (b) above),

shall be varied in accordance with subsection (4) and subsection (5) below; and in those subsections “the liability to the Board” means the liability imposed by paragraph (a) above on [^{F56}the institution].

[^{F58}(2A) The liability imposed by subsection (2)(a) above shall have effect—

- (a) where the liability of the institution to the investor is referable to deposits, as a liability in respect of deposits received immediately before the time when the institution began to be wound up;
- (b) where that liability is referable to shares, as a liability in respect of shares issued immediately before that time.]

(3) Where the [^{F59}institution’s] liability to the investor is referable to both shares and deposits, the amount equal to the insolvency payment to him shall, for the purposes of subsection (2) (b) above, be first applied in reduction of the liability referable to his shares then, if that amount exceeds that liability, in reduction of the liability referable to his deposits.

(4) The variation in the liquidator’s duty where the liability to the investor is referable to deposits of his is as follows—

- (a) in the first instance the liquidator shall pay to the Board instead of to the investor any amounts which, apart from this section, would be payable on account of the liability to the investor referable to deposits of his except in so far as that liability relates to a secured deposit; and
- (b) if at any time the total amount paid to the Board by virtue of paragraph (a) above and in respect of the liability to the Board equals the amount of the insolvency payment referable to deposits of the investor, the liquidator shall thereafter pay to the investor instead of to the Board any amount which, [^{F60}apart from this paragraph], would be payable to the Board in respect of the liability to the Board.

(5) The variation in the liquidator’s duty where the liability to the investor is referable to shares of his is as follows—

- (a) in the first instance the liquidator shall pay to the Board instead of to the investor any amounts which, apart from this section, would be payable on account of the liability to the investor referable to shares of his; and
- (b) if at any time the total amount paid to the Board by virtue of paragraph (a) above and in respect of the liability to the Board equals the amount of the insolvency payment referable to shares of the investor, the liquidator shall thereafter pay to the investor instead of to the Board any amount which, [^{F60}apart from this paragraph], would be payable to the Board in respect of the liability to the Board.

[^{F61}(5A) Where this section applies in respect of an institution that is not being wound up—

- (a) the institution shall, at the time when the insolvency payment falls to be made by the Board, become liable to the Board for an amount equal to that payment; and

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(b) the liability of the institution to the investor shall be reduced by an amount equal to that payment.

(5B) Where a participating institution is wound up after it has become insolvent subsections (2) to (5) above shall not apply to any insolvency payment to the extent to which the Board has received a payment in respect of it by virtue of subsection (5A)(a) above.]

[^{F62}(6) Where by virtue of paragraph 3 of Schedule 6 to this Act the insolvency payment is or is to be made by the Board to a person other than the person to whom the institution is liable in respect of the protected investment, any reference in the preceding provisions of this section to the liability to the investor shall be construed as a reference to the liability of the institution to the person to whom that payment would fall to be made by the Board apart from that paragraph.]

^{F63}(7)

^{F63}(8)

(9) Rules may be made—

- (a) for England and Wales and for Scotland, under section 411 of the ^{M4}Insolvency Act 1986, and
- (b) for Northern Ireland, under [^{F64}Article 359 of the Insolvency (Northern Ireland) Order 1989];

for the purpose of integrating the procedure provided for in this section [^{F65}and section 29A(3) to (5)]into the general procedure on winding up.

Textual Amendments

- F52** S. 28(1) substituted (1.7.1995) by S.I. 1995/1442, **reg. 41(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F53** Words in s. 28(2) inserted (1.7.1995) by S.I. 1995/1442, **reg. 41(2)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F54** Words in s. 28(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 41(2)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F55** Words in s. 28(2)(a) ceased to have effect (9.6.1997) and repealed (1.12.1997) by 1997 c. 32, ss. 33(1), 46(2), **Sch. 9**; S.I. 1997/1427, **art. 2(h)**; S.I. 1997/2668, art. 2(1), **Sch. Pt. I**
- F56** Words in s. 28(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 41(2)(c)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F57** Words in s. 28(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 41(2)(e)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F58** S. 28(2A) inserted (9.6.1997) by 1997 c. 32, s. 33(2); S.I. 1997/1427, **art. 2(h)**
- F59** Word in s. 28(3) substituted (1.7.1995) by S.I. 1995/1442, **reg. 41(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F60** Words in s. 28(4)(b)(5)(b) substituted (9.6.1997) by 1997 c. 32, s. 33(3); S.I. 1997/1427, **art. 2(h)**
- F61** S. 28(5A)(5B) inserted (1.7.1995) by S.I. 1995/1442, **reg. 41(4)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F62** S. 28(6) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 9**; S.I. 1997/1427, **art. 2(k)(n)(i)**
- F63** S. 28(7)(8) omitted (1.7.1995) by virtue of S.I. 1995/1442, **reg. 41(6)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F64** Words in s. 28(9)(b) substituted (N.I.) (01.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 43(b)**; S.R. 1991/411, **art. 2**
- F65** Words in s. 28(9) inserted (1.7.1995) by S.I. 1995/1442, **reg. 41(7)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)

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Modifications etc. (not altering text)

C8 Ss. 27, 28: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(b)(ii); S.I. 1997/1427, art. 2(g)

Marginal Citations

M4 1986 c. 45.

29 Repayments in respect of contributions.

- (1) Any moneys received by the Board under section 28 in respect of a [^{F66}participating institution] insolvency shall not form part of the Fund but, for the remainder of the financial year of the Board in which they are received, shall be retained for the purposes of this section in its application in relation to that insolvency and so far as appears to the Board appropriate, shall be invested in Treasury bills; and any income arising from moneys so invested during the remainder of the year shall be credited to the Fund.
- (2) The Board shall, in connection with each [^{F67}participating institution] insolvency for the purposes of which it has levied contributions under section 26, prepare a scheme for the making, out of moneys received by the Board under section 28 in respect of that insolvency, of repayments to the [^{F68}contributory institutions] in proportion to the contributions made by each [^{F69}such institution] in respect of the insolvency.
- (3) As soon as practicable after the end of the financial year of the Board in which any moneys are received by the Board in respect of a [^{F70}participating institution] insolvency, the Board shall, subject to subsection (4) below, make out of those moneys the payments required by the scheme made under subsection (2) above in connection with that insolvency.
- (4) Where payments are due under subsection (3) above to [^{F71}participating institutions] from whom contributions are due under section 26 for the purposes of other [^{F72}participating institution] insolvencies, the Board may appropriate out of the moneys retained by it under subsection (1) above amounts not exceeding the contributions due from [^{F73}those institutions] and apply them as if they had been paid by [^{F73}those institutions] as contributions for the purposes of the other [^{F72}participating institution] insolvencies.
- (5) If the Board makes appropriations under subsection (4) above, then, the amounts so appropriated shall be treated for all purposes as having been paid by the Board to those [^{F74}institutions] in or towards discharge of its debts to them and paid by the [^{F74}institutions] to the Board as contributions and corresponding amounts shall be credited to the Fund and debited to the account kept for the purposes of this section.
- (6) If in any financial year of the Board the payments made under subsection (3) above (in that and any previous years) in pursuance of a scheme under subsection (2) above are more than sufficient to provide for repayment in full of all the contributions to which the scheme related, the balance remaining of the moneys received and retained by Board as mentioned in subsection (1) above shall be credited to the Fund.
- (7) The Board, having regard to the factors specified in subsection (8) below, shall, as respects sums representing—
 - (a) any balance credited to the Fund under subsection (6) above and any interest thereon, or

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- (b) any balance of the contributions received in respect of the insolvency remaining after the making of insolvency payments to investors and the meeting of the other expenses attributable to the insolvency and any interest thereon,

either retain them in the Fund or pay so much of them to the [^{F75}contributory institutions] in proportion to the contributions made by each such [^{F76}institution] in respect of the insolvency, as the Board may think fit.

- (8) Those factors are—
- (a) the likely level of future administrative expenses of the Board, and
 - (b) the likelihood of other [^{F77}participating institutions] becoming insolvent and, if they did, the amount of the expenses likely to be attributable to those insolvencies and the amounts likely to be available from [^{F78}contributory institutions] to meet those expenses.

Textual Amendments

- F66** Words in s. 29(1) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(1)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F67** Words in s. 29(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(2)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F68** Words in s. 29(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(2)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F69** Words in s. 29(2) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(2)(c)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F70** Words in s. 29(3) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(3)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F71** Words in s. 29(4) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(4)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F72** Words in s. 29(4) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(4)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F73** Words in s. 29(4) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(4)(c)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F74** Words in s. 29(5) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(5)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F75** Words in s. 29(7) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(6)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F76** Words in s. 29(7) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(6)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F77** Words in s. 29(8) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(7)(a)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)
- F78** Words in s. 29(8) substituted (1.7.1995) by S.I. 1995/1442, **reg. 42(7)(b)** (with transitional and transitory provisions in **regs. 53(2), 54(2)**)

Modifications etc. (not altering text)

- C9** **Ss. 29-31:** power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**

^{F79}29A Power to obtain information.

- (1) If required to do so by a request in writing made by the Board, the Commission may by notice in writing served on a contributory institution require the institution, within

Status: Point in time view as at 09/06/1997.

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such time and at such place as may be specified in the notice, to furnish the Board with such information and to produce to it such documents, or documents of such a description, as the Board may reasonably require for the purpose of determining the contributions of the institution under this Part of this Act.

- (2) Subsections (6) to (10) of section 52^{F80} shall have effect in relation to any requirement imposed under subsection (1) above on a building society as they have effect in relation to a requirement imposed under that section.
- (3) The Board may by notice in writing served on an insolvent participating institution or, where a person has been appointed as liquidator of such an institution, on that person, require the institution or person, at such time or times and at such place as may be specified in the notice—
 - (a) to furnish the Board with such information; and
 - (b) to produce to the Board such books or papers specified in the notice,as the Board may reasonably require to enable it to carry out its functions under the protective scheme provisions of this Part.
- (4) Where, as a result of a participating institution being wound up, any books or papers have come into the possession of the office-holder mentioned in subsection (5) below, he shall permit any person duly authorised by the Board to inspect the books or papers for the purpose of establishing—
 - (a) the identity of those of the institution's investors to whom the Board is liable to make an insolvency payment; and
 - (b) the amount of the protected investment held by each of those investors.
- (5) The office-holder referred to in subsection (4) above is—
 - (a) in England and Wales, the Official Receiver;
 - (b) in Scotland, the liquidator; and
 - (c) in Northern Ireland, the Official Receiver for Northern Ireland.]

Textual Amendments

F79 S. 29A inserted (1.7.1995) by S.I. 1995/1442, reg. 43 (with transitional and transitory provisions in regs. 53(2), 54(2))

F80 Section 52 was amended by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218), regulation 75.

Modifications etc. (not altering text)

C10 Ss. 29-31: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g)

30 Tax treatment of contributions and repayments.

In computing for the purposes of the Tax Acts the profits or gains arising from the trade carried on by a contributory building society—

- (a) to the extent that it would not be deductible apart from this paragraph, any sum expended or treated under section 29 as expended by the society in paying a contribution to the Fund may be deducted as an expense; and
- (b) any payment which is made or treated as made to the society by the Board under section 29(3) or (7) shall be treated as a trading receipt.

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Modifications etc. (not altering text)

C11 Ss. 29-31: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g)

Other provisions

31 Voluntary schemes.

- (1) Subject to the provisions of this section, any two or more building societies may enter into arrangements for the purpose of making funds available to meet losses incurred by persons who have deposited money with, or who have shares in, an insolvent building society which is a party to the arrangements (referred to in this section as “voluntary arrangements”).
- (2) A building society shall have power to make contributions to a fund vested in trustees appointed under voluntary arrangements made in accordance with this section.
- (3) Voluntary arrangements shall not come into force, and no contributions shall be made thereunder by a building society, until the arrangements have been approved by the Commission and authorised by a resolution passed at a general meeting of the society as a special resolution.
- (4) The maximum payment to any investor that may be provided for by voluntary arrangements is such sum as represents the total liability of the insolvent society to him (of any amount) which is referable to sums deposited with the society or to his shares in the society, after taking into account payments to him under section 27
- (5) No payment under voluntary arrangements shall be made to any person—
 - (a) in respect of any investment which would be disregarded for the purposes of section 27(8), or
 - (b) where the liability of the insolvent society to him is reduced by any set-off for the purposes of section 27(10); or
 - (c) where that person is ineligible for any payment under the protective scheme provisions of this Part by virtue of a decision of the Board under section 27(4).
- (6) Voluntary arrangements may include—
 - (a) arrangements to constitute, and for contributions to be made to, a fund vested in trustees appointed under the arrangements, being a standing fund or a fund established in the event of an insolvency (or a combination of each);
 - (b) arrangements for payments to be made on behalf of the trustees to investors by societies participating in the arrangements;
 - (c) arrangements to protect only specified classes of investor or specified classes of investment;
 - (d) arrangements providing for a level of protection more limited than the maximum allowed by subsection (4) above;
 - (e) arrangements with the Board or any institution making payments to investors on the Board’s behalf for the purpose of making payments under the protective scheme provisions of this Part and voluntary arrangements at the same time; or
 - (f) arrangements providing, in circumstances specified in them, for payments to be made by the trustees to the societies making contributions.

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- (7) Any payment by a society participating in arrangements which include arrangements falling within subsection (6)(b) above shall be treated for the purposes of this section as a contribution paid by the society to the trustees and as a payment by the trustees to the investors.
- (8) Subject to subsection (9) below, subsections (2) to (6) of section 28 shall, if the voluntary arrangements so provide, apply to payments to investors made by the trustees as they apply to insolvency payments made by the Board.
- (9) In relation to a building society insolvency in respect of which the Board and the trustees have each made payments to investors, the variation in the liquidator's duty effected by subsections (2)(c), (4) and (5) of section 28 shall be modified as follows, that is to say—
- (a) subsection (4) shall have effect as if it required the liquidator, before paying the investor and after paying the Board to the extent required by that subsection, to pay to the trustees instead of to the investor any amount which, apart from this paragraph, would be payable to the trustees on account of the liability to the trustees referable to deposits of the investor; and
 - (b) subsection (5) shall have effect with a corresponding modification in respect of any such amount referable to shares of the investor,

and, in this subsection, “the liability to the trustees”, means the liability to the trustees which, by virtue of subsection (8) above, corresponds to the liability to the Board imposed by section 28(2)(a).

- (10) In this section “insolvent” and “insolvency”, in relation to a building society, have the meanings given by ^{F81}section 25A]; and “the trustees”, in relation to voluntary arrangements, means the trustees appointed under them.

Textual Amendments

F81 Words in s. 31(10) substituted (18.7.1996) by S.I. 1996/1669, reg. 23, Sch. 5 para. 3

Modifications etc. (not altering text)

C12 Ss. 29-31: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g)

32 Special provisions as regards investors.

The Provisions of Schedule 7 to this Act relating to shareholders in and depositors with a building society shall have effect.

33 Assistance by building societies to other building societies.

Where it appears to the Commission that a building society is in financial difficulties it may authorise a building society to lend money to that society, and a building society shall have power to do so accordingly.

Status:

Point in time view as at 09/06/1997.

Changes to legislation:

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